

COLORADO DEPARTMENT OF AGRICULTURE
700 KIPLING STREET
LAKEWOOD, COLORADO 80215-5894

MARKETING ORDER TO PROMOTE THE MARKETING OF WHEAT PRODUCED, SOLD OR MARKETED IN THE COUNTIES OF LOGAN, SEDGWICK, PHILLIPS, YUMA, WASHINGTON, KIT CARSON, WELD, MORGAN, BOULDER, LARIMER, ADAMS, LINCOLN, ELBERT, JEFFERSON, DOUGLAS, ARAPAHOE, CHEYENNE, KIOWA, CROWLEY, OTERO, BENT, PROWERS, BACA, LAS ANIMAS, HUERFANO, PUEBLO, EL PASO, FREMONT, CUSTER, MOFFAT, RIO BLANCO, AND ROUTT IN THE STATE OF COLORADO

I hereby certify that this document is a true and correct copy of said marketing order as issued by the Commissioner of Agriculture of the State of Colorado, on May 5, 1958, and as amended on May 27, 1959, and as amended on June 1, 1988, and as amended on March 16, 1992, and as amended on August 20, 1997, and as amended June 15, 2007 and April 13, 2014.

IN WITNESS WHEREOF, I, John T. Salazar, Commissioner of Agriculture, have here unto set my hand this 13th day of April, 2014.


John T. Salazar
Commissioner of Agriculture

STATE OF COLORADO
COLORADO DEPARTMENT OF AGRICULTURE
700 KIPLING STREET
LAKEWOOD, COLORADO 80215-5894

MARKETING ORDER REGULATING THE HANDLING OF WHEAT PRODUCED, SOLD OR MARKETED IN
THE

COUNTIES COVERED BY THIS ORDER

WHEREAS, it is provided in Chapter 7, Article 3, Colorado Revised Statutes 1953, as follows:

"Section 5. A. The Commissioner of Agriculture shall administer and enforce the provisions of this Act and shall have and may exercise any or all of the administrative powers conferred upon the head of a department of the State. In order to effectuate the declared purposes of this Act, the Commissioner of Agriculture is hereby authorized to issue, administer, and enforce the provisions of marketing orders hereunder regulating the handling of agricultural commodities produced in Colorado.

"B. Whenever the Commissioner has reason to believe that the issuance of a marketing order will tend to effectuate the declared policy of this Act with respect to any agricultural commodity, he shall either upon his own motion or upon application of any producer or handler of such commodity, give due notice of and an opportunity for a public hearing upon a proposed marketing order.

"C. Due notice of any hearing called for such purpose shall be given to all persons who may be directly affected by any action of the Commissioner pursuant to the provisions of this Act and whose names appear upon lists to be filed by such agricultural industry with the Commissioner. Such hearing shall be open to the public. All testimony shall be received under oath, and a full and complete record of all proceedings at any such hearing shall be made and filed by the Commissioner at his office.

"D. In order to effectuate the declared policy of this Act, the Commissioner shall have the power, after due notice and opportunity for hearing to enter into marketing agreements with processors, distributors, producers, and others engaged in the handling of any agricultural commodity, regulating the preparation, sale, and handling of such agricultural commodity which said marketing agreement shall be binding upon the signatories thereto exclusively. The execution of such marketing agreement shall in no manner affect the issuance, administration, or enforcement of any marketing order provided for in this Act. The Commissioner may issue such marketing order without executing a marketing agreement, or may execute a marketing agreement without issuing a marketing order covering the same commodity.

"The Commissioner in his discretion may hold concurrent hearings upon a proposed marketing agreement and a proposed marketing order in the manner provided for giving due notice and opportunity for hearing for a marketing order as provided in this Act," an

WHEREAS, the Commissioner of Agriculture having reason to believe that the issuance of a Wheat Marketing Order would tend to effectuate the declared policy of the Act with respect to wheat produced in the twenty-nine (29) counties of Colorado covered by the order, pursuant to the provisions of the Act, gave due notice thereof and held public hearings, covered by this order during the weeks of November 12 and 18, 1957. Informational referendum hearings were held in the twenty-nine (29) counties covered by this order during the week of March 24 through 28, 1958.

WHEREAS, the Commissioner of Agriculture finds, pursuant to the provisions of said Act, that the marketing order regulating the handling of wheat grown in the counties covered by this order in the State of Colorado will tend to:

Reestablish or maintain prices received by producers for wheat at the level which will give to such wheat purchasing power, with respect to the articles and services which farmers commonly buy, equivalent to the purchasing power of such wheat in the base period.

Approach such equality of purchasing power at as rapid a rate as is feasible in view of the market demand for such wheat.

Prevent the unreasonable or unnecessary waste of such agricultural wealth because of improper preparation of such wheat for market, lack of uniform grading and inspection, or excessive shipments to market.

Protect the interests of consumers of such wheat, by exercising the powers of this Chapter only to such extent as is necessary to establish the equality of purchasing power described in subsection (1) of this section; and

WHEREAS, in making the findings herein set forth the Commissioner of Agriculture has taken into consideration any and all facts available to him with respect to economic factors specified in Section 6 (b) of the Act; and

WHEREAS, this Marketing Order regulating the handling of wheat grown in the counties covered by this order, in the state of Colorado, embraces all persons of a like class in the counties covered by this order who are engaged in the specific and distinctive agricultural industry regulated by this Marketing Order.

NOW THEREFORE, it is ordered by the Commissioner acting under the authority vested in him by the Act, that such handling of wheat grown in the counties covered by this Order, State of Colorado, from and after the date herein specified shall be in conformity to and in compliance with the terms and conditions of this Order.

SECTION I
DEFINITIONS

Definitions: As used herein, the following terms have the following meanings:

- (a) "COMMISSIONER" means the Commissioner of Agriculture for the state of Colorado.
- (b) "ACT" means Chapter 7, Colorado Revised Statutes 1953, as amended.
- (c) "PERSON" means an individual, partnership, corporation, association, legal representative, or any organized group of individuals.
- (d) "PRODUCER" means any person who is engaged in the business of producing or causing to be produced for market wheat grown, sold or marketed in the state of Colorado.
- (e) "SELL" means a transaction wherein the ownership of wheat is transferred from the producer to a purchaser for a consideration. Sell for the purpose of this Order shall include any pledge or mortgage of wheat to any person, public or private. Sell shall also include any agreement to acquire such ownership for consideration.
- (f) "WHEAT" means and includes all varieties of wheat grown in the counties of the state of Colorado covered by this Order.
- (g) "VARIETY" means a type of wheat having similar characteristics, as, for example: Cheyenne, Marquis, Defiance, etc.
- (h) "WHEAT ADMINISTRATIVE COMMITTEE" shall mean the "Board of Control" established pursuant to Section II herein.
- (i) "HANDLER" means any person engaged in the operation of purchasing, packing, grading, selling, offering for sale, or marketing any marketable agricultural product; or any person who, as the producer, owner, agent, or otherwise, ships or causes an agricultural product to be shipped; or any governmental entity that obtains from a producer any interest in an agricultural commodity covered by a marketing agreement or order in connection with a governmental agricultural commodity program. The commissioner shall have the power to determine or specify who is a "handler" with respect to an agricultural commodity under a marketing agreement or order.
- (j) "FISCAL YEAR" means the period so established by the Commissioner by rule and regulation after consideration of recommendations by the board of control of said order.
- (k) "SHIP" means to sell, transport, offer for transportation or ship wheat by any means whatsoever.
- (l) "DISTRICT" means any of the following subdivisions of the state of Colorado, as defined in Section II, paragraph (b).

SECTION II

WHEAT ADMINISTRATIVE COMMITTEE

(a) MEMBERSHIP AND ORGANIZATION

A Wheat Administrative Committee consisting of nine (9) members is hereby established. There shall be an alternate for each member of the Wheat Administrative Committee.

(b) REPRESENTATIVE DISTRICTS FOR PRODUCER MEMBERS For the purpose of the nomination and selection of producer members of the Wheat Administrative Committee and their respective alternates, the portion of the state of Colorado covered by this Order shall be divided into nine (9) representative districts as follows:

District No. 1: Includes and consists of the counties of Sedgwick, Phillips, and Logan.

District No. 2: Includes and consists of the counties of Morgan, Washington, and Yuma.

District No. 3: Includes and consists of the counties of Cheyenne and Kit Carson.

District No. 4: Includes and consists of the counties of Weld, Boulder, and Larimer

District No. 5: Includes and consists of the counties of Adams, Arapahoe, Jefferson, Elbert, and Douglas.

District No. 6: Includes and consists of the counties of Lincoln, El Paso, Pueblo, Huerfano, Custer, and Fremont.

District No. 7: Includes and consists of the counties of Bent, Kiowa, Crowley, Otero, and Las Animas.

District No. 8: Includes and consists of the counties of Prowers and Baca.

District No. 9: Includes and consists of the counties of Moffat, Rio Blanco, and Routt.

Any county not included in this Order and wishing to come under the Wheat Order may, after holding a hearing and a referendum which has been approved by sixty-six and two-thirds (66 2/3) percent, or more, of the wheat producers in the county, petition the Commissioner of Agriculture and the Wheat Administrative Committee for the establishment of a district. This district may have representation on the Wheat Advisory Committee and the Wheat Administrative Committee in accordance with the provisions of Section II (c).

(c) SELECTION OF ADVISORY AND ADMINISTRATIVE COMMITTEES

(1) The producers in each county shall elect annually one (1) member and one (1) alternate to the State Wheat Advisory Committee. Said Committee shall serve in an advisory capacity to the Wheat Administrative Committee.

(2) Only producers shall participate in the nominations of producer members and their alternates to represent them on the State Wheat Advisory Committee, and a producer may participate only in the elections held in the county in which he produces wheat. No producer shall participate in the election of producer members and their alternates in more than one (1) county in any one fiscal year. In any such election, each producer shall be entitled to cast but one (1) vote on behalf of himself, his agents, partner, and representatives for each nominee to be elected. Cumulative or proxy voting

shall not be allowed.

(3) The respective districts shall be represented on the Wheat Administrative Committee on the basis of one (1) producer member and one (1) alternate from each district.

(4) The State Wheat Advisory Committee shall, after the year 1958, prior to March 1 of each year thereafter, from their membership, elect the nominees for members and alternates to the Wheat Administrative Committee. The County Members of the Wheat Advisory Committee in each district shall, from their members, elect the nominees for members and alternates to the Wheat Administrative Committee from their districts. There shall be at least two (2) nominees for members, and at least two (2) nominees for alternate for each of the districts. The chairman of each meeting shall announce at such meeting the name of each person for whom votes have been cast, whether as member or alternate, and the number of votes cast for each such person; and the chairman or the secretary of the meeting shall forthwith transmit such information to the Commissioner. Such nominations shall be submitted to the Commissioner prior to the beginning of the fiscal year. The Commissioner shall select one (1) member and one (1) alternate from the nominees thus elected.

(d) ELIGIBILITY FOR MEMBERSHIP

Producer members of the Wheat Administrative Committee and alter nates for such members must be residents and producers of wheat in the district in which they are nominated and selected.

(e) ACCEPTANCE BY MEMBERS AND ALTERNATES

Any person selected by the Commissioner as a member or as an alternate for a member of the Wheat Administrative Committee shall qualify within fifteen (15) days after being notified of such selection.

(f) FAILURE TO NOMINATE

In the event nominations, subsequent to the selection by the Commissioner of the initial members and their respective alternates, are not made and the names of such nominees are not submitted to the Commissioner prior to the beginning of the fiscal year, pursuant to paragraph (c) of this Section, the Commissioner may select such members and alternates without regard to nominations.

(g) TERM OF OFFICE

The initial members of the Wheat Administrative Committee and their respective alternates shall hold office for a term beginning on the date designated by the Commissioner, and ending March 15, 1959, and until their successors are selected and have qualified. Members and alternates selected subsequent to the initial term shall serve during the fiscal year for which they have been selected and until their successors are selected and have qualified.

(h) ALTERNATE MEMBERS OF THE WHEAT ADMINISTRATIVE COMMITTEE

An alternate for a member shall act in the place and stead of each member during such member's absence or in the event of death, removal, resignation, or disqualification of such member, until a successor for such member is selected and has qualified.

(i) VACANCIES

To fill any vacancy occasioned by the failure to qualify of any person selected as a member or as an alternate for a member of the Wheat Administrative Committee, or in the event of death, removal, resignation, or disqualification of any member or of any alternate, nominations and selection to fill such vacancy shall be made in the manner set forth in this Section.

(j) COMPENSATION AND EXPENSES

Each member and each alternate serving in place of a member of the Wheat Administrative Committee may receive compensation either through per-diem or he may be reimbursed for necessary expenses, actually incurred, or both, in attending each meeting.

(k) POWERS AND DUTIES

The Wheat Administrative Committee shall have the following powers and duties:

(1) To employ necessary personnel, including an attorney approved by the Attorney General of the State of Colorado, to fix its compensation and terms of employment, and to incur such expenses to be paid from monies collected as herein provided, as may be necessary and proper to enable such Wheat Administrative Committee to perform properly such of its duties as are authorized therein;

(2) To recommend administrative rules and regulations relating to the administration of the terms and provisions hereof;

(3) To receive and report to the Commissioner complaints of violations hereof;

(4) To submit to the Commissioner for his approval an estimated budget of expenses necessary for the operation hereof; the amount of assessment and a method of collecting such assessment as are necessary for the administration hereof;

(5) To assist in the collection of such necessary information and data as the Commissioner may deem necessary to the proper administration hereof. "Each season prior to making any recommendation pursuant to the provisions hereof, to determine the marketing policy to be followed during such season and to submit to the Commissioner a report of such policy containing, among other provisions, information relative to the estimated total production of wheat; possible or expected demand conditions of different market outlets; supplies of competitive commodities; an appropriate analysis of the foregoing factors and condition." The Wheat Administrative Committee shall also notify producers and handlers of the contents of such marketing policy;

(6) To act as intermediary between the Commissioner and any producer, distributor, or handler;

(7) To keep minutes, books, and records which will clearly reflect all of the acts and transactions of the Wheat Administrative Committee, which minutes, books, and records shall be subject at any time to examination by the Commissioner or any producer during any business hours.

(8) To cause the books of the Wheat Administrative Committee to be audited by a competent accountant at least once each fiscal year, and at such times as the Wheat Administrative Committee may deem necessary or as the Commissioner may request, and to file with the Commissioner copies of any and all reports;

(9) To give the Commissioner the same notice of all meetings of the Wheat Administrative Committee as given to the members.

(10) To select a chairman, a secretary, and such other officers as it may deem advisable; and the Wheat Committee shall adopt such rules, not inconsistent with the provisions hereof, relative to the methods of conducting its business, as it may deem advisable.

(11) To perform such duties as may be assigned to it from time to time by the Commissioner in connection with the administration thereof.

(12) To cooperate with the United States Department of Agriculture for the purpose of obtaining uniformity of administration in any marketing order affecting the commodity regulated hereunder.

(13) To cooperate with the state Extension Service, Experiment Station, or any other department of Colorado State University, or any other Federal or State agency, or any firm, corporation, or private individual for the purpose of promotion, and utilization of wheat.

(1) PROCEDURE

(1) The Wheat Administrative Committee may, upon the selection and qualification of a majority of its members, organize and commence to function. A majority of all members shall be necessary to constitute a quorum of the respective Wheat Administrative Committee.

(2) For any decision of the Wheat Administrative Committee to be valid, a concurring vote of a majority of all members shall be necessary. Except as provided herein, each member, or alternate member when acting as a member, shall vote in person.

(3) The Wheat Administrative Committee may provide for the members thereof, including the alternate members when acting as members, to conduct meetings by telegraph or telephone, or any other means of communication, and any vote cast at such meeting shall be confirmed promptly in writing, provided that in any assembled meeting so held all votes shall be cast in person.

(m) PROCEDURE

(1) All funds received by the Wheat Administrative Committee pursuant to any of the provisions hereof, shall be deposited in a bank, or banks, or other depository approved by the State Treasurer, and shall be used solely for the purposes herein specified. The Wheat Administrative Committee shall account to the Commissioner for all funds so received; all expenditures by the Wheat Administrative Committee shall be audited at least annually and a copy of such audit shall be delivered within thirty (30) days after completion thereof to the Governor and the Commissioner of Agriculture.

(2) Whenever any person ceases to be a Wheat Administrative Committee member or alternate, he shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession, to his successor in office or to such person as the Commissioner may designate and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or in such designated person the right to all property, funds, or claims vested in such member or alternate.

SECTION III

RESEARCH FOR IMPROVEMENT OF MARKETING AND UTILIZATION

(a) RECOMMENDATION

Whenever the Wheat Administrative Committee deems it advisable that a research and/or market plan for the improvement of the marketing and/or utilization of wheat in both foreign and domestic trade, such a plan may include, but shall not be limited to, the opening up of new markets for wheat; developing new users for wheat, both at home and abroad; explore the possibility of developing new agricultural and industrial uses for wheat, it may submit to the Commissioner a recommendation for the establishment of such plan and the information upon which such recommendation is based. At the time of submitting

such recommendation and information, the Wheat Administrative Committee shall prepare and submit therewith a proposed plan, together with a budget of the expenses that will necessarily be incurred in connection with the execution, operation, and administration of such plan and a rate of assessment, based upon the gross quantity of wheat handled to be believed against each producer for the purpose of providing a fund to defray such expenses.

(b) ESTABLISHMENT

Whenever the Commissioner finds from the recommendation and information submitted by the Wheat Administrative Committee, or from other available information, that the establishment of a research marketing and utilization plan will tend to effectuate the declared purposes of the Act, he shall prepare and issue a plan for the improvement of the marketing and/or utilization of wheat based upon the plan submitted and recommended by the Wheat Administrative Committee.

(c) FUND FOR EXPENSES AND RATE OF ASSESSMENT

(1) Upon the issuance of any research plan, the Commissioner shall approve a budget and rate of assessment based upon the recommendation and information submitted by the Wheat Administrative Committee, and shall promptly notify the Wheat Administrative Committee of his action thereon.

(2) Each producer's pro-rata share of the expenses that may be incurred during a fiscal year in connection with any research plan established pursuant to this section shall be based upon the rate of assessment recommended by the Wheat Administrative Committee and shall be that proportion of such expenses which the total quantity of wheat sold by each producer during such fiscal year is of the total quantity of all wheat sales by all producers during said fiscal year and shall be remitted by such producer as otherwise provided in Section V (c).

(3) The rate of assessment may be adjusted from time to time by the Wheat Administrative Committee in order to cover any later findings by the Wheat Administrative Committee of the estimated expenses or actual expenses that may be incurred in connection with any research, marketing, and utilization plan.

(d) ADMINISTRATION OF PLAN

The Wheat Administrative Committee shall administer any marketing and/or utilization plan issued pursuant to this section in such manner as best to effectuate the purpose hereof provided that any such research plan shall be directed toward carrying on research in all phases of marketing and utilization of wheat, and for the expenditure of monies for such purposes.

SECTION IV

SALES PROMOTION, PUBLIC RELATIONS, AND EDUCATIONAL PROGRAMS

(a) RECOMMENDATION

Whenever the Wheat Administrative Committee deems it advisable to engage in sales promotion, public relations, and educational programs, such plan may include, but shall not be limited to: advertising, personal contacts, exhibits and samples, spelling out the wheat growers' problems to the general public; educational programs to inform consumers, school children, etc., to encourage consumption of wheat in various products; inform the farmers and aid them in analyzing their own problems; it may submit to the Commissioner a recommendation for the establishment of such plan and the information upon which such recommendation is based. At the time of submitting such recommendation and information, the Wheat Administrative Committee shall prepare and submit

therewith a proposed advertising and sales-promotion plan, together with a budget of the expenses that will necessarily be incurred in connection with the execution, operation, and administration of such plan and rate of assessment, based upon the gross quantity of wheat handled to be levied against each producer for the purpose of providing a fund to defray such expenses.

(b) ESTABLISHMENT

Whenever the Commissioner finds from the recommendation and information submitted by the Wheat Administrative Committee or from other available information that the establishment of programs covering sales promotion, public relations, and educational plans will tend to effectuate the declared purpose of the Act, he shall prepare and issue such sales promotion, public relations, and educational plans based upon the plan or plans submitted and recommended by the Wheat Administrative Committee.

(c) FUND FOR EXPENSES AND RATE OF ASSESSMENT

(1) Upon the issuance of any advertising, sales promotion, educational, and public relations plan, the Commissioner shall approve a budget and rate of assessment based upon the recommendation and information submitted by the Wheat Administrative Committee and shall promptly notify the Wheat Administrative Committee of his actions thereon.

(2) Each producer's pro-rata share of the expenses that may be incurred during any fiscal year in connection with any advertising and sales promotion plan established pursuant to this section shall be based upon the rate of assessment recommended by the Wheat Administrative Committee and shall be that proportion of such expenses which the total quantity of wheat sold by each producer during such fiscal year is of the total quantity of all wheat sold by all producers during said fiscal year and shall be remitted by such producer as otherwise provided in Section V (c).

(3) The rate of assessment may be adjusted from time to time by the Wheat Administrative Committee in order to cover any later findings by the Wheat Administrative Committee of the estimated expenses or the actual expenses that may be incurred in connection with any advertising, sales promotion, educational and public relations plan.

(d) ADMINISTRATION OF PLAN

The Wheat Administrative Committee shall administer any plan issued pursuant to this section in such manner as best to effectuate the purpose hereof provided that any such plan shall be directed toward creating new or larger markets and increasing the sale of wheat, public relations, educational programs connected therewith. No plans shall be issued or administered by the Wheat Administrative Committee which shall make use of false or unwarranted claims on behalf of wheat or which shall disparage the quality, value, and sale or use of any agricultural commodity.

SECTION V

EXPENSES AND ASSESSMENTS

(a) EXPENSES

The Wheat Administrative Committee is authorized to incur such expenses as the Commissioner finds are reasonable and likely to be incurred by such Wheat Administrative Committee for the maintenance and functioning hereunder during the then current fiscal year. The Wheat Administrative Committee shall prepare and submit to the Commissioner a proposed budget of expenses and a proposed rate of assessment for the then current fiscal year. The funds to cover such expenses shall be acquired by levying of assessments as provided in this

Section.

(b) ASSESSMENTS

Each producer's pro-rata share shall be based upon the rate of assessment fixed by the Commissioner and shall be that proportion of such expenses which the total quantity of wheat sold by such producer is of the total quantity of wheat sold by all producers during said fiscal year. The assessment covering the budgets established by the Wheat Administrative Committee under this Order shall be two cents (\$0.02) per bushel for wheat produced in any one fiscal year in the counties of Colorado covered by this Order in any one fiscal year. At least fifty percent of the assessment collected above one cent shall be allocated to wheat research. That portion of the assessment levied which exceeds one-half cent per bushel shall be subject to refund pursuant to rules established by the Commissioner.

(c) COLLECTION OF ASSESSMENTS

(1) All assessments made and levied pursuant to the provisions of this marketing order shall be paid by the respective producers who shall be primarily liable therefor. Such assessments shall be collected from the producers by the first handler thereof, and such handler shall remit to the Commissioner upon demand all assessments so collected. Any handler within the state of Colorado who fails or neglects to collect such assessment from any producer or to remit such collection to the Commissioner as herein provided shall be deemed guilty of a violation of this Order.

(2) In case of a pledge or mortgage of Wheat as security for a loan made privately under the Federal Price-Support Program, the assessment shall be deducted from the proceeds of such loan at the time of the disbursement of the loan. In case of an overage of wheat at the time of the settlement of the loan, the assessment shall be paid on the overage. In case of a shortage at the time of settlement of the loan, the over-payment will be credited to the producer's account. In case of purchase agreements under the Federal Price-Support Program, the assessment shall be made at the time of final settlement. Wheat stored in private or public storage within the State shall not be liable for assessment until sale is made or loan secured.

(3) Any producer who by virtue of his activities or circumstances shall be within the meaning of the term "handler" as herein defined, or who shall sell, ship, or otherwise dispose of wheat to a handler or other person or store wheat outside the jurisdiction of this Order, shall forthwith remit to the Commissioner the full amount of the assessment due. Any producer who fails to pay or remit such assessment as herein provided shall be deemed guilty of a violation of this Order.

SECTION VI

PRODUCER ACCOUNTS

(a) ACCOUNTS CREDITED OR DEBITED

At the end of each fiscal year, the Wheat Administrative Committee shall credit each producer with any amount paid by such producer in excess of his pro-rata share of the expenses, or shall debit such producer with the deficiency between his pro-rata share and the amount paid by such producer. Any such debits shall become due and payable upon demand of the Wheat Administrative Committee.

SECTION VII

DEPOSITS

(a) DEPOSITS AND DISBURSEMENTS

Any monies collected by the Commissioner pursuant to this Act shall be deposited in a bank or banks, or other depository, approved by the State Treasurer, allocated to each marketing order under which they are collected, and disbursed by the Commissioner only for the necessary expenses incurred by the Wheat Administrative Committee and the Commissioner and approved by the Commissioner with respect to each such separate marketing order. Funds so collected shall be deposited and disbursed in conformity with appropriate rules and regulations prescribed by the Commissioner; all such expenditures by the Commissioner shall be audited at least annually, and a copy of such audit shall be delivered within thirty (30) days after the completion thereof to the Governor and the Commissioner of Agriculture.

(b) DISTRIBUTION OF FUNDS REMAINING

Any monies remaining in such fund at the discretion of the Commissioner, may be refunded at the close of any marketing season upon pro-rata basis, to all persons from whom assessments are collected, or such portion of such monies as may be recommended by the Wheat Administrative Committee and approved by the Commissioner may be carried over into the next succeeding marketing season whenever the Commissioner finds that such monies may be required to assist in defraying the cost of operating this Order in such succeeding season, provided, that upon termination by the Commissioner of this marketing order, any and all monies remaining and not required by the Commissioner to defray the expenses of this marketing order, shall be returned by the Commissioner upon a pro-rata basis, to all persons from whom assessments were collected; provided, further, however, that if the Commissioner finds that the amounts so returnable are so small as to make impractical the computation and remitting of such pro-rata refund to such persons, the Commissioner may use the monies in such fund to defray the expenses incurred by him in the formulation, issuance, administration, or enforcement of any subsequent marketing order for such commodity.

SECTION VIII

REPORTS AND RECORDS

The Commissioner may require any and all handlers to maintain books and records reflecting their operations as such and to furnish to the Commissioner, or his duly authorized or designated representatives, such information as may be from time to time requested by them relating to such operations, and to permit the inspection by said Commissioner or his designated representatives of such portions of such books and records as relate to such operations.

SECTION IX

COMPLIANCE

(a) WHEAT NOT SUBJECT TO REGULATION

Nothing contained herein shall be construed to authorize any limitation of the right of any person to ship wheat for consumption by a charitable institution or for distribution for relief purposes or for distribution by a relief agency, not including purchases by a Federal Agency.

SECTION X

LIABILITY

The members of the Wheat Administrative Committee duly appointed by the Commissioner, including employees of such Wheat Administrative Committee, shall not be held responsible individually in any way whatsoever to any producer, distributor, or handler, or to any other person, for errors in judgment, mistakes or other acts-- either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other member of such Wheat Administrative Committee.

The liability of the members of such Wheat Administrative Committee shall be several and not joint, and no member shall be liable for the default of any other member.

SECTION XI

EFFECTIVE TIME AND TERMINATION

(a) EFFECTIVE TIME

The provisions hereof shall become effective at such times as the Commissioner may declare above his signature attached hereto and shall continue in force until terminated as specified in this section.

(b) TERMINATION

(1) The Commissioner shall suspend, amend, or terminate any provision hereof whenever he finds that such provision does not tend to effectuate the declared purposes of the Act within the standards and subject to the limitations therein imposed, provided that such suspension or termination shall not be effective until the expiration of the then current marketing season.

(2) If the Commissioner finds that the termination hereof is requested in writing by more than fifty (50) percent of the producers who are engaged within the portion of the State covered by this Order, in the production for market of wheat, or who produced for market more than fifty (50) percent of the volume of wheat produced within this section of the State, the Commissioner shall terminate the provisions hereof provided that such termination shall be effective only if announced on or before March 1 of the then current marketing period.

(3) The provisions hereof shall, in any event, terminate whenever the provisions of the Act authorizing them cease to be in effect.

(c) PROCEEDING AFTER TERMINATION

(1) Upon the termination of the provisions hereof, the Commissioner may appoint the members of the Wheat Administrative Committee then functioning to continue as joint trustees for the purpose of liquidating the affairs of the Wheat Administrative Committee of all property then in the possession or under the control of the Wheat Administrative Committee, including property not delivered at the time of such termination.

(2) The trustees may continue in such capacity until discharged by the Commissioner and shall from time to time account for all receipts and disbursements or deliver all funds and property on hand, together with all books and records of the Wheat Administrative Committee and the joint trustees to such person as the Commissioner may direct; and shall, upon request of the Commissioner, execute such assignment so other instruments necessary or

appropriate to vest in such person full title to all funds and claims vested in the Wheat Administrative Committee or the joint trustees pursuant hereto.

(3) Any person to whom funds, property, or claims have been delivered by such joint trustees, upon the discretion of the Commissioner, as provided in this paragraph, shall be subject to the same obligations and duties with respect to said funds, property, or claims as are imposed upon the joint trustees.

SECTION XII

EFFECT OF TERMINATION ON AMENDMENTS

Unless otherwise expressly provided by the Commissioner, the termination hereof or of any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision hereof or any regulation issued hereunder, or (b) release or extinguish any violation hereof or of any regulation issued hereunder, or (c) affect or impair any rights or remedies of the Commissioner or of any other person with respect to any such violation.

SECTION XIII

DURATION OF IMMUNITIES

The benefits, privileges, and immunities conferred upon any person by virtue hereof shall cease upon the termination hereof, except with respect to acts done under and during the existence hereof.

SECTION XIV

AGENTS

The Commissioner may, by designation in writing, name any person, including any officer or employee of the Colorado Department of Agriculture, to act as his agent or representative in connection with any of the provisions hereof.

SECTION XV

SEPARABILITY

If any provision hereof is declared invalid, or the applicability thereof to any person, circumstances, or thing is held invalid, the validity of the remainder hereof or the applicability thereof to any other person, circumstances, or thing shall not be affected thereby.

SECTION XVI

DEROGATION

Nothing contained herein is or shall be construed to be in derogation or in modification of the rights of the Commissioner or the State of Colorado to exercise any powers granted by the Act, or otherwise, or in accordance with such powers, to act in the premises whenever such notice is deemed advisable.

SECTION XVII

AMENDMENTS

Amendments hereto may be proposed from time to time by the Wheat Administrative Committee or by the Commissioner, and must be referred to the producers by referendum.

SECTION XVIII

RIGHTS OF COMMISSIONERS

The members of the Wheat Administrative Committee, including successors and alternates, and any agent or employee appointed or employed by any Wheat Administrative Committee shall be subject to removal or suspension by the Commissioner for cause at any time. Each and every regulation, decision, determination, or other act of the Wheat Administrative Committee shall be subject to the continuing right of the Commissioner to approve or disapprove of the same at any time, and upon such disapproval shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Commissioner.

IN WITNESS WHEREOF, I, Paul W. Swisher, Commissioner of Agriculture for the State of Colorado, pursuant to the authority in me vested by law, do hereby execute, issue, and publish this Marketing Order at my office in Denver, Colorado, this fifth (5th) day May A. D., 1958, and do declare that I have this day posted a notice of the issuance of this Order on a public bulletin board in my office, and a copy of said notice is hereby published in newspapers of general circulation published in the State of Colorado, and broadcast over the radio stations, and therefore this Order shall be in full force and effect after 12:01 a.m. (MST), May 15, A.D., 1958.

(Signed) _____
Paul W. Swisher Commissioner